

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.264 of 2019

Arising Out of PS. Case No.-20 Year-2018 Thana- SALIMPUR District- Patna

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Amarnath Rai (M) age 66 years, son of Dahaur Rai Resident of Village - Kala
Diara, P.S. Salimpur, District Patna.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Home Dept. (Police), Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Collector, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Police, Rural, Patna.
6. The Sub-divisional Police Officer, Barh.
7. The Station House Officer, Salimpur Police Station, District Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Uday Prasad Singh, Advocate
For the Respondent/s : Mr.M. Nasrul Huda Khan,SC-1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 04-02-2019

This writ petition has been filed by the petitioner
for a direction to the respondents to investigate Salimpur P.S.
Case No. 20 of 2018 registered under Sections 384, 387 and
447/34 of the Indian Penal Code properly and arrest the accused
persons involved in the said case.

2. The petitioner is the informant of Salimpur P.



S. Case No.20 of 2018 in which he has alleged that he is the owner of Khesra No. 207, Khata No. 63 , Thana No. 175 admeasuring 30 decimals land situated in village-Gyaspur, P.S.- Salempur, District-Patna. At the time of raising boundary wall, the local villagers raised a dispute and claimed existence of a common passage through the plot. They also cut and removed Jackfruit trees standing over the said plot. They started putting pressure upon the petitioner to donate 1/2 Katha of land for Devi Asthan. When the petitioner refused to fulfill their desire, they constructed a platform (*Chabutra*) and put an idol of Lord Mahavir and started worshiping there. When the petitioner objected, the accused persons started threatening him.

3. Learned counsel for the petitioner contended that on the information given by the petitioner, Salimpur P.S. Case No. 20 of 2018 was registered under Sections 384, 387 and 447/34 of the Indian Penal Code against altogether 11 persons, but till date no action has been taken against them. He submitted that the petitioner has made several representations to the Superintendent of Police, Senior Superintendent of Police and the DIG of the Police, but the accused persons have not been arrested till date.

4. *Per contra*, learned counsel appearing for



the State submitted that on reading the allegations made in the FIR as contained in Annexure-1, it would appear that a pure and simple case of civil dispute has been given a colour of criminal case. He contended that merely because an FIR has been instituted, the police cannot be asked to arrest the accused persons. The veracity of the allegations has to be seen in course of investigation. He contented that though the police have been vested with power to arrest any person accused of a cognizable offence even without a warrant, such arrest is not required to be made mechanically.

5. I have heard learned counsel for the parties and carefully perused the record.

6. To hold investigation into a cognizable offence is statutory right of the police.

7. Since the FIR has been registered against certain accused persons in respect of a cognizable offence, at this stage, it would not be proper for this Court to hold as to whether it is a case of civil dispute or the allegations do attract ingredients of any cognizable offence, as it is well-settled position in law that at the stage of investigation, the court has no role to play.

8. It has rightly been submitted by the learned



counsel for the State that though the police have power to arrest without warrant in case of a cognizable offence, such power should not to be exercised mechanically. In case, a person is falsely implicated or arrest of an accused is not required for the purpose of investigation, it would not be proper for any court to issue direction to the police to arrest him. Moreover, nothing has been brought to the notice of this Court to show that investigation is tainted.

9. In that view of the matter, I see no merit in this writ petition. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2019
Transmission Date	12.02.2019

